

EDMUND G. BROWN JR.
GOVERNORMATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Francisco Bay Regional Water Quality Control Board

February 28, 2013
File No.: 43S0110 (RWP)

Siemens Corporation (SMI Holding LLC)
ATTN: Mr. Gary A. Jones
170 Wood Avenue South
Iselin, NJ 08830

gary.a.jones@siemens.com

SUBJECT: Approval of *Revised Third Addendum to Work Plan to Evaluate Potential Vapor Intrusion*, and Requirement for a Report for property at 10950 North Tantau Avenue, Cupertino, Santa Clara County

Dear Mr. Jones:

Regional Water Board staff has reviewed the February 14, 2014, *Revised Third Addendum to Work Plan to Evaluate Potential Vapor Intrusion* (Addendum) for the subject site. As explained below, I approve the Addendum. You are required to submit a report documenting the implementation of the Addendum **60 days after collecting the indoor air data but no later than May 15, 2014.**

Background

The Regional Water Board regulates the site under Order No. 90-119 (Order). Our December 13, 2013, letter (Letter) required you to submit a workplan to evaluate potential indoor air vapor intrusion in the on-property building at 10950 North Tantau Avenue and off-property residential area. The off-property vapor intrusion evaluation was addressed by submitting the February 2014, *Work Plan to Evaluate Vapor Intrusion*. After the site walk with USEPA on February 11, 2014, you submitted the Addendum for the on-property commercial building that was modified by email correspondence dated February 13 and 14, 2014 between you and USEPA (Emails).

Addendum Summary

The Addendum proposes the following as modified by the Emails:

- Shutting down the heating, ventilation, and air conditioning (HVAC) system for 36 hours with outdoor air intakes closed.
- Collecting 28 24-hour indoor air samples at the on-property commercial building with the HVAC shut down.
- Analyzing the indoor air samples using USEPA Method TO-15.
- Evaluating the indoor air data by comparing the indoor air results with the following:
 - Outdoor air sample results.

- Short-term health-based response action levels for trichloroethene.
- Long-term health-based screening levels.

It is our understanding that your consultant and USEPA requested the 24-hour indoor air sampling period was preferred over a 10-hour sample based on the building occupancy revealed during the February 11, 2014, site walk.

Regional Water Board Response

The Workplan satisfies the on-property requirements of the Letter. I hereby approve it.

You are required to submit a report documenting the implementation of the Workplan **60 days after collecting the indoor air data but no later than May 15, 2014**. The report shall include an evaluation of the definition of vapor intrusion and a proposal for additional investigation to fully define the extent of vapor intrusion concerns, as needed.

This requirement for a report is made pursuant to Water Code Section 13267, which allows the Regional Water Board to require technical or monitoring program reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. The attachment provides additional information about Section 13267 requirements. Any extension in the above deadline must be confirmed in writing by Regional Water Board staff.

You are required to submit all documents in electronic format to the State Water Resources Control Board's GeoTracker database and in hard copy format to this office. Guidance for electronic information submittal is available at http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal.

If you have any questions, please contact Roger Papler of my staff at (510) 622-2435 [e-mail rpapler@waterboards.ca.gov].

Sincerely,

A handwritten signature in dark ink, appearing to read "Stephen Hill", with a small "for" written below it.

Bruce H. Wolfe
Executive Officer

Digitally signed by Stephen Hill
Date: 2014.02.28 08:11:11
-08'00'

Attachment: Water Code 13267 Fact Sheet
cc with Attachment: Mailing List

MAILING LIST

U.S. EPA

ATTN: Ms. Melanie Morash

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San Francisco Bay Regional Water Quality Control Board

Fact Sheet – Requirements for Submitting Technical Reports Under Section 13267 of the California Water Code

What does it mean when the Regional Water Board requires a technical report?

Section 13267¹ of the California Water Code provides that “...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires.”

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

The requirement for a technical report is a tool the Regional Water Board uses to investigate water quality issues or problems. The information provided can be used by the Regional Water Board to clarify whether a given party has responsibility.

Are there limits to what the Regional Water Board can ask for?

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The Regional Water Board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

Are there penalties if I don't comply?

Depending on the situation, the Regional Water Board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

Do I have to use a consultant or attorney to comply?

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

What if I disagree with the 13267 requirements and the Regional Water Board staff will not change the requirement and/or date to comply?

You may ask that the Regional Water Board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the Regional Water Board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board.

If I have more questions, whom do I ask?

Requirements for technical reports include the name, telephone number, and email address of the Regional Water Board staff contact.

Revised January 2014

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov.